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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/728,412	12/05/2003	Russ Wankowski	1498	9729

7590

03/24/2006

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EXAMINER

CRANE, DANIEL C

ART UNIT

PAPER NUMBER

3725

DATE MAILED: 03/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/728,412	<b>Applicant(s)</b> WANKOWSKI, RUSS	
	<b>Examiner</b> Daniel C. Crane	<b>Art Unit</b> 3725	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 01 December 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-6 and 21-32 is/are pending in the application.
- 4a) Of the above claim(s) 21-27 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6, 28-30 and 32 is/are rejected.
- 7) ☒ Claim(s) 5 and 31 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

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### **BASIS FOR REJECTIONS**

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

- (a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.
- (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
- (e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

- (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

### **REJECTION OF CLAIMS OVER PRIOR ART**

Claim 1, 4 and 6 are rejected under 35 U.S.C. 102(b) or alternatively under 103(a) as being anticipated or unpatentable over Jackson (2,990,734). Jackson discloses the process steps where a shank portion of a stud 8 is engaged by a shank engagement member 1 and moved relative to a fixed portion of the shank to deflect the shank portion. It is inherent that the stud head is held in a fixed manner so as to counteract the forces applied during movement of the shank engagement member thereby causing the shank portion of the stud 8 to be bent. Accordingly, the stud head must be held in some manner to effect the shank bending. Simply placing the workpiece 10 on a supporting table would constitute a "head engagement member" and function identically. The preamble offers no limiting features since "bent snowmobile studs" can relate to any stud/rivet joint that is applied to various different connecting applications on a snowmobile. Thus, the claimed method steps are anticipated by Jackson. Alternatively, it

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is the examiner's position that it would have been obvious to the skilled artisan having the benefit of Jackson's method for forming a joint connection to apply the method to snowmobile joints where a secure rivet-like joint is required, such as in the sheet housing connecting non-metallic members together, framework connections, upholstery attachments, etc. As to claim 4, the fact that the shank is threaded does not affect the process steps.

Claims 2, 3, 28-30 and 32 are rejected under 103(a) as being unpatentable over Jackson (2,990,734). The comments set out supra are incorporated herein. The degree of bend would have been a matter of choice in Jackson's invention since the amount of bend would be dictated by the sufficiency of the fracture needed. Furthermore, the amount would also be dependent upon the size and shape of the shank of the stud. Accordingly, it would have been obvious to the skilled artisan at the time of the invention to have performed bends within the claimed angles when the size and shape dictates such.

#### **WITHDRAWAL FROM CONSIDERATION**

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-6 and 28-32, drawn to a method for bending a snowmobile stud, classified in class 72, subclass 316.
- II. Claims 21-27, drawn to bent snowmobile stud, classified in class 305, subclass 185.

The inventions are independent or distinct, each from the other because:

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Inventions I and II are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make another and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case, the finished product, represented by the product-by-process claims, could be made without recourse to the claimed process. Because of the peculiar nature of product-by-process claims, it is the finished product per se that carries the features of the subject matter. Accordingly, the finished product, i.e., bent snowmobile stud, could be made by rolling.

Because these inventions are independent or distinct for the reasons given above and the inventions require a different field of search (see MPEP § 808.02), restriction for examination purposes as indicated is proper.

Applicant's election of Group in the Response of December 1, 2005 has been noted. Accordingly, in view of the above division of claims, claims 21-27 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on December 1, 2005.

#### **INDICATION OF ALLOWABLE SUBJECT MATTER**

Claims 5 and 31 are objected to.

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#### **PRIOR ART CITED BY EXAMINER**

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

#### **RESPONSE BY APPLICANT(S)**

Applicant(s) response to be fully responsive and to provide for a clear record must specifically point out how the language of the claims patentably distinguishes them from the references, both those references applied in the objections and rejections and those references cited in view of the state of the art in accordance with 37 CFR 1.111 (a), (b) and (c).

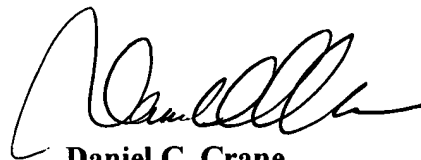
#### **INQUIRIES**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner D. Crane whose telephone number is (571) 272-4516. The examiner's FAX number is (571) 273-4516. The examiner's supervisor, Mr. Derris Banks, can be reached at (571) 272-4419.

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Documents related to the instant application may be submitted directly to Group 3700 by facsimile transmission at all times. Applicant(s) is(are) reminded to clearly mark any transmission as "DRAFT" if it is not to be considered as an official response. The Office Facsimile Center number is **(571) 273-8300**.

DCCrane  
March 10, 2006

A handwritten signature in black ink, appearing to read 'Daniel C. Crane', written in a cursive style.

**Daniel C. Crane**  
Primary Patent Examiner  
Group Art Unit 3725